

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

FEDERAL AGENCY COMPLIANCE ACT

The committee resumed its sitting.

Mr. GEKAS. Madam Chairman, I yield such time as he might consume to the gentleman from Kentucky (Mr. BUNNING).

Mr. BUNNING. Madam Chairman, I thank the gentleman from Pennsylvania for yielding, and I thank him for the opportunity to comment on H.R. 1544, the Federal Agency Compliance Act.

Madam Chairman, I appreciate the committee's effort to prevent agencies from refusing to follow controlling precedents of the United States Courts of Appeal in the course of program administration. I fully agree that Federal agencies, including the Social Security Administration, must follow circuit court decisions. However, I do not support legislation that compromises the fair and impartial treatment of Social Security claimants.

This bill seeks to allow administrative law judges and other adjudicators the latitude to apply their own interpretation of circuit court decisions. As chairman of the Subcommittee on Social Security, I have grave concerns about the impact this legislation would have on Social Security disability decision-making and particularly on the Americans' public right to unbiased treatment.

Currently, when the U.S. Circuit Court of Appeals publishes a decision that conflicts with the Social Security Administration policy, Social Security can either, one, issue an acquiescent ruling to apply the case in that circuit or, two, change its policies to apply the case nationwide or seek Supreme Court review.

SSA's acquiescent ruling process is the means by which SSA provides all decision makers with directions on how to uniformly and fairly apply courts' decisions which conflicts with SSA's nationwide policy. SSA takes over 2 million new disability claims a year and processes over 600,000 disability appeals. SSA has over 20,000 decision makers. H.R. 1544 would authorize SSA, more than 20,000 adjudicators, to apply their own individual interpretation of a circuit court decision.

As we all know, court decisions are often subject to various interpretations. If all 20,000 SSA adjudicators were permitted to apply their own interpretations of court decisions, different standards would be applied to individuals with similar circumstances across this Nation.

I am not in favor of SSA adjudicators applying conflicting standards. Not

only does H.R. 1544 jeopardize the right of individuals seeking SSA benefit, the bill also undermines the statutory authority of the Commissioner of SSA to establish rules and policies. In order to insure that similarly situated individuals are treated in a consistent manner, SSA would have to devote additional resources to monitor its adjudication process.

Total SSA resources are limited. Any shift in resources to account for new work loads would likely have untold effects. Those untold effects could include delays in retirement claims, claims filed by widows or claims filed by severely disabled individuals waiting for their disability decisions. SSA's disability work load is of such staggering proportion that any proposal that would have even the slightest impact on processing time delays must be carefully examined and deliberated by Congress.

The American public should not have to tolerate additional delays in the process that already takes too long. The American public should not be subjected to inconsistent and possible biased decision-making. The public deserves better.

We are all aware of the challenges facing the Social Security Trust Fund. CBO has stated that they cannot predict the budgetary impact of H.R. 1544. I say we cannot move forward until we know how this legislation will impact the long term solvency of the Social Security Trust Funds.

Therefore, I urge my colleagues to vote no on H.R. 1544, and I thank the gentleman from Pennsylvania (Mr. GEKAS) for the time.

Mr. GEKAS. Madam Chairman, having reserved some time, I now yield myself such time as I may consume. The gentleman from Kentucky has brought up some issues that require a response.

First of all, the Social Security Administration has told us in different ways repeatedly that they are willing to acquiesce and that they have changed their procedures and are turning towards a policy of acquiescence rather than the nonacquiescence which we seek to cure by this legislation. But even if they did, if they took a complete turn around and now are acquiescing in full, that does not make our legislation obsolete because this would carry to all agencies across the board where all of them would be bound by the circuit court and other court decisions.

So if the Social Security Administration itself says they are acquiescing, then opposition to this bill comes empty handed because all this does would be in effect codify what the Social Security Administration has asserted to us it is trying to do anyway. But in the meantime, while we pass this legislation, we are codifying their new system if they are acquiescing, while at the same time applying it to other agencies across the board where by we would know that the court opin-

ions would be respected and in which acquiescence would be a routine matter.

Another point which has to be made is that from the standpoint of the administrative judges, and the gentleman from New York (Mr. NADLER) first noted this very important aspect of what we are about here, the administrative law judges, in the first instance, are the first battleground. They, too, should have a cognizance that the precedents already set by the circuit court should apply to them as they deliberate on the adjudicative level within an agency on a particular matter.

So all of this helps the entire system of justice from the standpoint of the claimant, who makes the first claim would know that the chances of having to litigate and relitigate the claim that that individual is making for disability, for Social Security benefits, for Medicare, for land management questions, for labor questions, any kind of question that comes up before agencies would have the sweep of this law to help protect them against the cost. And the aggravation and the time involved in relitigation over and over again for a precedent that has already been set by the courts and should be adhered to in the first place, thereby saving all the time and energy and cost that would be involved in pursuing the case time and time again.

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Madam Chairman, I reserve the balance of my time.

Mr. NADLER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I believe that, subject to the amendment I am going to offer in a few moments, as soon as the bill is open to amendments, that this is an excellent bill, a bill worthy of support, and, unfortunately, an unnecessary bill.

I say unfortunately because we should not have to do this. Agencies should not continue to deny benefits to people when the Circuit Court has said you are wrong in your interpretation of the law. That is not what Congress meant. Congress meant under these circumstances, whatever they may be, the person is entitled to Medicare or Social Security or disability or whatever the case may be.

But we know that, under administrations of both parties, this has happened. It has happened repeatedly, even recently; and we should protect people from the necessity and the taxpayers, too. Because when there is a relitigation of the same points, the taxpayers are paying the money on one side, the individual on the other; and this is wrong.

So I strongly support this bill; and I hope the majority, the distinguished chairman, will see his way clear to accepting the amendment so that we will have the votes to make sure that this bill is enacted into law.